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SEC

SERVICE DATE – JUNE 1, 2005

SURFACE TRANSPORTATION BOARD

DECISION

STB Finance Docket No. 29963

BAY COLONY RAILROAD CORPORATION–
MODIFIED RAIL CERTIFICATE

Decided: May 31, 2005

On April 13, 2005, the Massachusetts Bay Transportation Authority (MBTA) filed a Notice of Termination of Operating Authority of the Bay Colony Railroad Corporation (Bay Colony). Bay Colony has been operating the 3.4-mile Millis Industrial Track between Medfield Junction (milepost 0.0) and the end of the line in Millis (milepost 3.4) in Norfolk County, MA, under a modified certificate of public convenience and necessity that was issued on September 24, 1987, pursuant to 49 CFR 1150.23. Bay Colony has been operating the line under a lease and operating agreement with MBTA, the owner of the line.

On May 2, 2005, Bay Colony filed a petition to dismiss MBTA's notice. Bay Colony concurrently filed a petition for declaratory order in Bay Colony Railroad Corporation–Petition For Declaratory Order, STB Finance Docket No. 34698, asking the Board to determine that: (1) MBTA's notice is invalid and ineffective to terminate its authority to operate the line; (2) Bay Colony has a regular certificate of public convenience and necessity, not a modified certificate, to operate the line; (3) MBTA can terminate Bay Colony's operating rights only by an adverse abandonment proceeding; and (4) Bay Colony is the successor in interest to, and the current holder of, an easement affording Bay Colony the right to provide freight service on the line.

A decision served on May 25, 2005, granted MBTA an extension until May 31, 2005, to file its response to Bay Colony's petition to dismiss.

On May 31, 2005, MBTA filed a motion requesting that this proceeding be held in abeyance until either it or Bay Colony gives notice that it wishes the proceeding to go forward. MBTA indicates that it and Bay Colony wish to explore settlement of the issues raised in Bay Colony's petition. MBTA adds that the parties have recently exchanged information about the record title to the easement reserved by the Penn Central Transportation Company in a 1973

deed, which Bay Colony claims it holds as the successor in interest. According to MBTA, that information may enable the parties to reach a settlement of issues raised by the petition. Bay Colony assents to MBTA's motion.

Good cause exists for granting MBTA's motion to hold this proceeding in abeyance. The parties are directed to report on the status of their negotiations by July 1, 2005.

It is ordered:

1. MBTA's motion to hold this proceeding in abeyance is granted. The parties are directed to report on the status of their negotiations by July 1, 2005.

2. This decision is effective on the date of service.

By the Board, Vernon A. Williams, Secretary.

Vernon A. Williams
Secretary